



Horsham Rural City
Council urban rural balance

Council Policy

AGREEMENTS FOR THE USE OF COUNCIL FACILITIES

1. PURPOSE

To determine the appropriate usage agreement to be entered in to for use of Council facilities or land (Properties), and charges to be applied.

2. INTRODUCTION

Council owns and controls a range of properties. These are used either by Council directly, or commercially leased, or are utilised by a community organisation or group of community organisations.

There is a huge diversity in the range of community facilities with multi-use facilities such as community centres, technical facilities such as libraries, service facilities such as kindergartens and aged care, single use rooms such as halls and sporting clubrooms and recreational facilities such as the basketball stadium and sporting grounds.

These arrangements are often long standing and involve trust and commitment from all parties involved. However each arrangement is unique and the circumstances of each group is also unique. There should however be common points of understanding that are applied consistently across all of the community groups that benefit from access to Council facilities or land.

This policy defines the appropriate agreements that should be put in place across a range of circumstances as well as providing a number of template agreements that should be utilised.

It is important for common understanding that agreements are consistent and kept up to date for both the benefit of Council and also the community group.

3. SCOPE

This policy applies to all property or land that are either, Council owned, Crown land for which Council is the Committee of Management or any other arrangement that gives Council control (principally under lease arrangements to Council).

4. DEFINITIONS

Committee of Management: Committees of management can consist of locally elected or appointed citizens, a municipal council, statutory bodies or trustees. For the purposes of this policy Council as the Committee of Management for Crown Land will recognise the social and recreational needs of the community by providing and managing land for a range of community uses.

Commercial Operations: A commercial operation is an enterprise undertaken for the purpose of gaining a profit or personal gain for an individual or group.

Community Benefit: A community benefit is one that has value to the community rather than just benefitting an individual or a group.

Community Purpose: Facilities owned, funded or leased by Council or the community and used by more than one group and or used for a range of activities that share buildings, rooms or open spaces at the same time (concurrently) or at different times (sequentially).

Crown Land: Crown land is a class of public land that has been set aside for public purposes for the enjoyment and benefit of the people of Victoria. Crown land reserves support a whole range of amenities and uses such as halls, libraries, theatres, showgrounds, gardens, bushland, zoos, foreshores, sports ovals, tennis courts, playgrounds, swimming pools and rail trails.

The principal legislation dealing with the reservation and management of Crown lands in Victoria is the *Crown Land (Reserves) Act 1978*.

Facility: For the purposes of this policy the term facility should be interpreted broadly to include both property and land.

Properties: Properties relates to all commercial premises and land owned by Horsham Rural City Council, Crown Land for which Council is the Committee of Management and facilities under lease agreement to Council.

Section 86 Committee: Is a “Special” Committee of Council that is established under Section 86 of the Local Government Act 1989. As a “Special” Committee it derives its powers through an instrument of delegation from Council, which allows the Committee to exercise a power or perform a duty or function of Council

5. PRINCIPLES - AGREEMENTS

As a general principle a Council agreement should be utilised, not any other style of agreement that is put forward by the proposed leasee or licensee.

5.1 Council Owned (or Managed under lease)

5.1.1 Commercial Operations (with a community benefit)

A commercial lease to be drawn up through Council’s solicitors, and managed directly by Council. Examples: The Horsham Cinema, Caravan Park (if leased out), VLine Ticket Office, AirBP Aviation Fuel station at the aerodrome.

5.1.2 Commercial Operations (with no community benefit)

A commercial lease to be drawn up through Council’s solicitors and should be managed through a property estate agent, to manage the ongoing relationship. Examples are the Commercial Properties on Firebrace St.

5.1.3 Multi-use Community Purpose

5.1.3.1 Section 86 Committee:

Where the facility is controlled by a Section 86 Committee the *Instrument of Delegation* for that Committee should clearly set out the purpose, scope and role of that Committee and establish the extent of the facility that is to be managed, any shared use considerations and the cost sharing arrangements between the committee and Council. For each community entity using that facility there should be a separate *Facilities Usage Agreement* put in place that sets out responsibilities and obligations of each party involved. Current examples are the Basketball Stadium, the Sunnyside Recreational Reserve, Dudley Cornell Park.

5.1.3.2 Incorporated Association

Where the facility is controlled by an incorporated association then a *Facilities Licence Agreement* should be put in place. This licence agreement will include a detailed schedule of the extent of the facilities covered by the licence and a schedule setting out the maintenance and cost sharing arrangements between

the entity and Council. Any usage agreements between other parties that may utilise the facilities will be managed by the Incorporated Association that holds the licence. If Council wishes to have some influence as to who and how the facility is utilised then a *Shared Use Agreement* may also be established.

Examples are the Cameron Oval Reserve at Laharum, the Horsham Rowing Club (Shed), the Quantong Recreational Reserve, and the Mechanics Institute Building.

5.1.4 Single Use Community Purpose

The preferred arrangement is to enter in to a *Facilities Licence Agreement* directly with the community entity. Ideally that entity will be an incorporated association however in some cases this could be another type of entity. This licence agreement will include a detailed schedule of the extent of the facilities covered by the licence and a schedule setting out the maintenance and cost sharing arrangements between the entity and Council. Current examples are some of our community halls and kindergartens.

5.2 Crown Land

Where Council is the Crown Land Committee of Management appointed by the Department of Environment and Primary Industries (DEPI)

5.2.1 Commercial Operations

Commercial operations on Crown Land must have a lease in place that is approved by the Department of Environment and Primary Industries (DEPI) in a form that they will advise. Current example is the Westside Tabaret.

5.2.2 Multi-use Community Purpose

The property should be controlled by a Section 86 Committee. The *Instrument of Delegation* for that Committee should clearly set out the purpose, scope and role of that Committee and establish the extent of the facilities/property that is to be managed, and the cost sharing arrangements between the committee and Council. For each community entity using that facility there should be a *Facilities Usage Agreement* put in place that sets out responsibilities and obligations of each party involved. Current examples are the Horsham Racecourse Reserve and the City Oval.

5.2.3 Single Use Community Purpose

The preferred arrangement is to encourage the entity to become the Committee of management through DEPI. When that is not achievable then a *Facilities Licence Agreement* will be entered into directly with the community entity. Ideally that entity will be an incorporated association however in some cases this could be

another type of entity. This licence agreement will include a detailed schedule of the extent of the facilities covered by the licence and a schedule setting out the maintenance and cost sharing arrangements between the entity and Council. Current examples are some of our community halls and kindergartens.

6. PRINCIPLES – CHARGES

6.1 Commercial (with a community benefit):

The charge will be an appropriate commercial rent as recommended by a registered real estate agent. This should allow for all costs of Council to be covered including an adequate return on Capital. Consideration should then be given to the level of community benefit that may be provided from the facility and any other capital considerations that may give rise to a discount to the charge.

6.2 Commercial (with no community benefit):

The charge will be an appropriate commercial rent as recommended by a registered real estate agent. This should allow for all costs of Council to be covered including an adequate return on Capital, but needs to be consistent with the commercial market place.

6.3 Commercial On Crown Land

The charging principle to be applied is an appropriate commercial rate as advised by DEPI and agreed by Council.

6.4 Community Purpose

In determining who is responsible for what in the “Maintenance Responsibility Schedule” in the relevant agreement, Council will consider service level hierarchies as determined in the relevant Asset Management Plan. Council will apply these in a consistent manner across all assets within a specific class.

As per the “Maintenance Responsibility Schedule”, the Community Entity will cover the costs of all of the items for which it is responsible, and Council will cover the costs for all of the items that it is responsible for but will charge the Community Entity an appropriate fee that will cover/contribute towards these costs, with due consideration given to clearly documented offsets for other community and public uses or benefits.

7. COMMUNICATION

This policy is available on Council’s website and will be provided to all community groups upon negotiation or renegotiation of their arrangements.

8. RESPONSIBILITY

Policy Owner: Director of Corporate Services

9. SUPPORTING DOCUMENTS

Document	Location
Facilities Usage Agreement (Template)	Intranet
Facilities Licence Agreement (Template)	Intranet
Shared use Agreement (template)	Intranet
Section 86 Instrument of Delegation (Template)	Intranet

10. DOCUMENT CONTROL

Version Number	Approval Date	Approval By	Amendment
01	16 June 2014	Council	New Policy